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GENERAL AGENTS

TOBACCO TRUST

(Continued from page 9.)

Is "commerce?" What is "restraint" of trade or commerce? and What is it to "monopolize?"

What is Commerce?

Around "What is commerce?" the principal fight in the Tobacco case probably is to be found. The commerce which the government claims is being restrained and monopolized is not commerce, according to the Tobacco attorneys. It is nothing more than the manufacture of an article which later enters into commerce. The bulwark behind which the Tobacco organization is making its fight along this line is the famous Knight decision, made even more famous by the reference to it by former President Roosevelt last fall in criticizing the decisions of the Supreme Court. In that case the court declined to suppress an alleged monopoly in manufacture of sugar, on the ground that it had authority to monopolies in commerce. The tobacco corporations claim that they are concerned only incidentally in commerce.

Again the dispute as to what is included in the word "Commerce," as referred to in the Sherman anti-trust law, arises in connection with the character of a holding company. Both the Standard Oil and the Tobacco organizations contend that the power granted by the constitution to regulate interstate commerce is not so extensive as to include regulation of the acquisition and ownership of a holding company of stock in other corporations. The government argues that whenever a holding company necessarily stifles or directly and substantially restricts free competition in commerce, the United States has power to protect such commerce.

Restraint of Trade.

In the contest regarding the answer to the question of "What is 'restraint' of commerce?" the first dispute is over the interpretation of "restraint of trade" as equivalent to the absence of free competition. The government advances the theory that reduction of competition means a restraint on trade and consequently higher prices. The corporations urge that a combination of producers may mean a reduction of expenses and consequently lower prices.

The government further contends that the Sherman anti-trust law refers only to such restraints as are direct and material. One judge in passing on the Tobacco case in the circuit court held that the law referred to every restraint without regard to directness or materiality. It is said that this doctrine would stifle legitimate business. The defendant organizations do not press this argument so much, because they claim in their cases that no direct and material restraint of commerce exists. This claim is based upon the argument that they are engaged principally, not in interstate commerce as were the railroads in the Northern Securities case, but in the manufacture of goods, which may go into interstate commerce later.

Standard Oil Success.

The third division of the contest is over the interpretation of the word "monopolize." The Standard Oil is particularly concerned with this phase of the controversy, because the lower court found that it was attempting to monopolize. Attorneys for the company advance the argument that under the law it could legally acquire the trade of the world in an article provided it did nothing to prevent others from competing with it. They declare the Standard Oil has done nothing to prevent others from competing. Success has come to it, so they claim, because of "untiring energy, indefinite skill, abundant capital and steady reinvestment of early profits." The government has piled up volume on volume to support its contention that success was achieved by unfair competition.

Corporation Tax Cases.

The corporation tax cases, eighteen in all, involve entirely different arguments. The corporation tax provisions of the Payne-Aldrich tariff act provide for "a special excise tax with respect to the carrying on or doing business" by corporations, "equivalent to one per centum upon the entire net income over and above \$5,000." Each of the cases was originated in various circuit courts by persons financially interested in the tax not being paid. These persons asked the courts to enjoin the payment of the tax by respective corporations because the tax was unconstitutional. The validity of the tax was upheld in each case.

The law is opposed principally on the ground that it attacks the sovereignty of the states by taxing state franchises; that it invades the right to due process of law by levying a tax on classes fixed arbitrarily; and that it is a direct tax not apportioned among the states, as required by the constitution.

Many Other Cases.

Prosecutions for violations of the anti-trust law were foremost in the work of the past year in the Department of the Attorney General Actions, says the Attorney General, are now underway or pending against the following so-called trusts:

Tobacco Trust.
Standard Oil Company.
Sugar Trust.

Harriman Lines.
Hard Coal Trust.
Powder Trust.
Terminal Railway Association of St. Louis.
Towing Trust, on the Great Lakes.
James A. Patton and others for an alleged corner in cotton.
Beef Trust.
Wholesale Grocers Trust.
Butter & Egg Trust.
Brick Trust.
Bath Tub Trust.
The following convictions were secured and fines imposed during the year:
Paper Trust, fined \$57,000.
Night Riders, fined \$3,500.
Window Glass Trust, fined \$10,000.

Organized Frauds.

There are now suits under way to recover \$700,000 of which the customs revenue is said to have been defrauded in imports of cheese and figs from Mediterranean ports; indictments are pending and some convictions have been secured. A highly organized system to defraud the government has been disclosed.

More than 30 individual indictments are pending against persons charged with smuggling with "sleeper trucks." Offers of compromise and prayers for immunity are in the hands of the attorney general from several firms of importers who have confessed to frauds in undervaluations.

Criminal Charges Brought.

Twenty-five criminal indictments charging rebating and other illegal discriminations are pending against railroads, private corporations and individuals. Two convictions with fines were secured during the year.

Land frauds are probably entitled to place with the customs frauds and violations of the anti-trust law. The department won signal victories during the year against unlawful fencing of the public domain. In 98 civil suits and 28 criminal prosecutions more than 400,000 acres of land illegally fenced were restored to the government.

Prosecutions against the Oregon & California Railroad Company and 45 other defendants to recover 2,300,000 acres of land valued at \$50,000,000 which the government claims are illegally held, are now pending. There are also under way 24 suits against the Central Pacific Railway Company acres of valuable lands, which the government contends were illegally patented, probably with the private knowledge that they were valuable for the mineral and oils underneath.

In the department's campaign against Bucket Shops, 350 such places were closed, others voluntarily closed as a result of the crusade and indictments are pending against men and corporations and the telegraph company which allowed the use of its wires.

FAMOUS INVENTOR OF PUZZLES.

In the May American Magazine W. P. Eaton tells about Sam Loyd, the best known and most successful inventor of puzzles—the man who invented "Pigs in Clover." Following is part of the account of this remarkable man, who died last month:

"To the present writer, who never got the hang of a single puzzle in all his life without help, Sam Loyd is the most remarkable person in the world, for he has invented 10,000 puzzles in more than half a century of diabolical activity. He began when he was six by scaring the cook with ventriloquial voices in the kitchen chimney and taking rabbits out of the pockets of his mother's guests in the parlor. At ten he was a noted chess player and invented many chess problems. He studied to be an engineer, along with side dashes into painting and drawing, languages and mathematics. But his propensity to puzzle was too much for him. While still almost a youth, he invented and drew a puzzle in fifteen minutes, printed the first edition at a cost of less than \$5 and ultimately made \$10,000.

"Who," said he, "would have remained an engineer when he could make \$10,000 in fifteen minutes?"

"At any rate, Sam Loyd didn't. He went into puzzle-making as a profession, and he stayed with it. He was born in 1841, in Philadelphia, and is a cousin of John S. Sargeant, the great portrait painter. His first puzzle to be put on the market—the one which brought him the big returns just mentioned—was the famous donkey puzzle. The pictures of two donkeys and two men are printed on a card. You cut the card in three pieces and try to lay them in such a manner that you put a rider on each donkey. One thousand million of these puzzles have been sold in the last fifty years. It used to be known as Barnum's Donkey Puzzle, because Barnum bought thousands a week to distribute ahead of his show. Barnum himself, Sam Loyd said, could never remember how to do his own puzzle.

"Another of Loyd's 'best sellers' was the 'Fifteen-block Puzzle.' A still more famous one was 'Pigs in Clover,' which appeared simultaneously with Mrs. Ward's 'Robert Elsmere,' enjoyed quite as large a sale and left nearly as lasting an impression. Poor Sam Loyd, however, didn't get the benefit of this inven-

the Government wouldn't patent 'Pigs in Clover' because the patent laws call for a working model, and the department affirmed that his model wouldn't work. So the market was flooded by other makers. Loyd was also the inventor of 'Parcheesi,' 'Get Off the Earth' and 'Teddy and the Lions,' a recent puzzle, which shows eight lions printed partly on a square card, partly on a circular disk revolving within the square. Turn the disk and one of the lions vanishes from sight. The question is, where does he go? Nothing, naturally, happens to Teddy."

DOUGHT TO HAVE CONVENTIONS HERE

E. Wobber of the firm of Wobber Incorporated, printers, stationers and engravers of San Francisco, is spending a few weeks in Honolulu with his family, having arrived by the S. S. Siberia.

Mr. Wobber is greatly charmed with the scenery and climate of the islands. Of local business conditions as they impress him he has the following to say:

"Honolulu is a mighty good business city and it would certainly profit some business people from the eastern and western states to locate here.

"Competition is not so keen here as on the mainland and with advanced ideas of merchandising, which they would bring here newcomers should do well."

"They could introduce modern methods of window and interior display of goods and could arrange and systemize their different displacements in a way which would, in my opinion, get the money."

"What Honolulu wants to do is to make an effort to get conventions held here with the cooperation of the steamship companies and through the medium of special excursions. It would be a great thing for the town, particularly if special care was taken of the visitors during their stay here."

Mr. Wobber is a member of the San Francisco Convention League.

THE TELEPHONE CASE.

Further time, to May 25, has been stipulated between the attorney on both sides in the telephone injunction case within which the plaintiff may file an amended bill.

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